

## APPEAL NO. 010286

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) on remand was held on January 29, 2001. The Appeals Panel, in Texas Workers' Compensation Commission Appeal No. 001643, decided August 30, 2000, remanded the case to the hearing officer for reconstruction of the record. No testimony was taken at the CCH. The hearing officer issued a decision after remand giving presumptive weight to the designated doctor's report on impairment rating (IR) and holding that the appellant's (claimant) IR was seven percent. It was stipulated that the claimant had reached maximum medical improvement on July 15, 1999.

The claimant appealed and argued that her treating doctor has certified a 20% IR and that the hearing officer's conclusions to the contrary are wrong. The respondent (carrier) responded that the appeal was insufficient to join issue, and that the decision of the hearing officer was supported by the law and record in the case.

### DECISION

We affirm the hearing officer's decision.

We will consider the appeal filed by the claimant to raise an issue as to the sufficiency of the evidence. The hearing officer did not err in determining that the claimant's IR was seven percent and that this was not contrary to the great weight of the medical evidence. It is clear that the designated doctor, Dr. H, considered both surgeries performed on the claimant. Dr. H also documented the basis for his findings in a narrative report. The basis for the 20% IR assigned by the treating doctor is not explained. Section 408.125(e) provides that the report on IR of the designated doctor shall be adopted unless the great weight of medical evidence is to the contrary. "Great weight" means more than a mere preponderance. Texas Workers' Compensation Commission Appeal No. 92412, decided September 28, 1992.

The decision of the hearing officer will be set aside only if the evidence supporting the hearing officer's determination is so weak or against the overwhelming weight of the

evidence as to be clearly wrong or manifestly unjust. Atlantic Mutual Insurance Company v. Middleman, 661 S.W.2d 182 (Tex. App.-San Antonio 1983, writ ref'd n.r.e.). We cannot agree that this was the case here, and affirm the decision and order.

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Susan M. Kelley  
Appeals Judge

CONCUR:

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Thomas A. Knapp  
Appeals Judge

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Robert E. Lang  
Appeals Panel  
Manager/Judge